

**BEFORE THE ARIZONA STATE BOARD
FOR CHARTER SCHOOLS**

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In the matter of:

**ASCENDING ROOTS SCHOLASTIC
& ATHLETIC PREMISE, INC.** (a non-profit corporation)

and

**ASCENDING ROOTS SCHOLASTIC
& ATHLETIC PREMISE** (a charter school).

No. 08F-RV-002-BCS

BOARD ORDER

On August 18, 2008, the Arizona State Board for Charter Schools ("Board") met to consider the recommended decision of the Administrative Law Judge ("ALJ") in the above-captioned matter. The recommended decision is attached hereto and incorporated herein by this reference. The Board was represented by Kim S. Anderson, Assistant Attorney General. Rita White and Kisha Spellman White, the Charter Representatives of the Ascending Roots Scholastic & Athletic Premise, Inc., appeared on behalf of the Ascending Roots Scholastic & Athletic Premise, Inc. ("School"), a nonprofit corporation, and Ascending Roots Scholastic & Athletic Premise, a charter school. The Board was advised by Christopher Munns of the Solicitor General and Opinions Section of the Attorney General's Office.

The Board, having reviewed the administrative record and the attached ALJ's Decision in this matter, and having considered the written and oral arguments of the parties and fully deliberating the same, takes the following actions on the recommended decision and issues its order as set forth below:

APPEARANCES:

Modify the appearances noted in the recommended decision and add footnotes as follows:

The Arizona State Board for Charter Schools appeared through Kim S. Anderson, Esq., Assistant Attorney General; Charter Holder Ascending Roots Scholastic & Athletic Premise, Inc. did not appear at the July 16, 2008 hearing¹; Charter Holder Ascending Roots Scholastic & Athletic Premise, Inc. appeared through Rita White, Charter Representative and Board Member Authorized to Represent the Non-profit Corporation, at the July 17, 2008 hearing².

This modification is supported by the statements and testimony of Rita White reflected in the transcript of the July 16, 2008 charter revocation hearing (Volume I) ("TR,

07/16/08"), page 5, lines 12-15, page 9, lines 10-19, page 15, line 10 to page 16, line 9.

This modification is further supported by the testimony of Andrea Leder, Government and Financial Services Manager, Arizona State Board for Charter Schools at TR,

07/16/08, page 28, lines 11-15, and Board Exhibits 1 and 20. This modification is also supported by Finding of Fact Nos. 16 and 20. The footnotes in the ALJ's recommended decision will be renumbered to reflect the addition of the Board's footnotes.

FINDINGS OF FACT

1. Adopt Finding of Fact Nos. 1 through 5 in their entirety.
2. Modify Finding of Fact No. 6 to add the following sentence to the record

¹ Rita White, Charter Representative for Ascending Roots Scholastic & Athletic Premise, Inc. appeared at the July 16, 2008, hearing and stated that she was one of the signatories on the Charter Contract, is an officer of Ascending Roots Scholastic & Athletic Premise, Inc., but that she was not authorized by Ascending Roots Scholastic & Athletic Premise, Inc. to represent it at the hearing.

² Board Exhibit 20, presented by Rita White on July 17, 2008, reflects that on July 10, 2008, Rita White was given authority to represent Ascending Roots Scholastic & Athletic Premise, Inc. during the charter revocation hearing.

to the end of the paragraph:

The Notice of Service by Certified Mail filed by the Board on June 30, 2008, reflects that the Notice of Intent to Revoke Charter and Notice of Hearing were received at the address of the Ascending Roots charter school on March 25, 2008 and April 1, 2008, respectively.

This modification is supported by the Notice of Service by Certified Mail contained in the underlying Record of the Office of Administrative Hearings, which was examined during the meeting.

3. Adopt Finding of Fact Nos. 7 through 34 in their entirety.
4. Modify Finding of Fact No. 35 as follows:

Ms. LeGrand testified that, during the 2005-2006 school year, Ascending Roots received federal funds under NCLB. The purpose of such funding was to close disparities in student educational achievement. ADE may monitor compliance with federal law by requiring information from public and charter schools that receive such funds.

This modification more accurately reflects the testimony of Karen LeGrand, Title I Specialist, Arizona Department of Education and is supported at TR. 07/16/08, page 43, lines 11-13.

5. Modify Finding of Fact No. 36 as follows:

As a recipient of NCLB Act funds in fiscal year 2005-2006, Ascending Roots was required to submit a NCLB Programmatic Monitoring Cycle Six packet for fiscal year 2005-2006. The NCLB Programmatic Monitoring Cycle Six packet includes the School's procedures for identifying and reclassifying ELL students and for assessing the ELL students' progress in the programs that the School has provided. ELL students are students who have not attained proficiency in the English language.

This modification more accurately reflects the testimony of Karen LeGrand and is supported at TR. 07/16/08, page 44, lines 3-12 and page 44, line 20 to page 45, line 8.

6. Adopt Findings of Fact Nos. 37 and 38 in their entirety.

7. Modify Finding of Fact No. 39 to reflect that the letter sent to Ascending Roots by ADE was dated May 25, 2006, not May 25, 2005 as follows:

Ms. LeGrand testified that Ascending Roots did submit some additional information to ADE. However, it did not provide the information requested above. [Footnote # 12. See the Board's Ex. 9. These materials appeared to relate to the Cycle 1 Packet, which was not in issue.]. On May 25, 2006, ADE sent another letter to Ascending Roots, again requesting that it provide the information described above but extending the deadline to June 20, 2006. [Footnote # 13. See Board's Ex. 13.]

This modification more accurately reflects the testimony of DeAnna Rowe, Executive Director, Arizona State Board for Charter Schools at TR, 07/16/08, page 72, line 4 to page 73, line 5. The modification correcting the date of the letter is supported by Board Exhibit 13.

8. Adopt Finding of Fact Nos. 40 through 43 in their entirety.

9. Modify Finding of Fact No. 44 as follows:

A.R.S. § 15-183(E)(3) and the Charter Contract require that Ascending Roots provide a comprehensive program of instruction that was in alignment with the Arizona Academic Standards that have been adopted by the Arizona State Board of Education ("the Standards"). The Standards include content areas for each grade.

This modification is supported by the testimony of DeAnna Rowe at TR, 07/16/08, page 56, lines 22-23.

10. Adopt Findings of Fact Nos. 45 through 47 in their entirety.

11. Modify Finding of Fact No. 48 as follows:

Ms. Rowe testified that the social studies requirement was added to the Declaration of Curricular and Instructional Alignment to the Standards for the 2007-2008 school year.

This modification is supported by the testimony of DeAnna Rowe at TR, 07/16/08, page 63, lines 10-13.

12. Modify Finding of Fact No. 49 as follows:

Ms. Rowe testified that, on February 7, 2008, she visited the School in an effort to visit the classrooms and to observe the instruction occurring in the classrooms. Ms. Rowe testified that at a site visit conducted at the School earlier by Ms. Leder as part of the Board's review based on Ascending Roots' failure to file a timely audit report, the students were not in the classroom, they were not engaged in instructional activities, and were out on the playground having a "field day." Ms. Rowe testified that, when she sent staff to the School on a second day to visit classrooms, the School told the staff that a significant number of teachers were absent, with their classes assigned to substitutes.

This modification more accurately reflects the testimony of DeAnna Rowe and is supported at TR, 7/16/08, page 58, line 11 to page 59, line 8.

13. Modify Finding of Fact No. 50 to reflect that Ms. Rowe's observations of the school classrooms occurred on February 7, 2008, not February 8, 2008, as follows:

Ms. Rowe testified that, on February 7, 2008, she observed four classrooms: the first classroom was a combination of first and second grade students; the second classroom was a combination of third and fourth grade students; the third classroom was a combination of fifth and sixth grade students; and the fourth classroom was a combination of seventh and eighth grade students. The Charter Contract did not contemplate that classes would include multiple age and grade level students.

This modification is supported by the testimony of DeAnna Rowe at TR, 7/16/08 at page 58, lines 5-8.

14. Modify Finding of Fact No. 51 as follows:

Ms. Rowe testified that she asked the teachers how they were differentiating instruction to students in the two grades included in their classes. Mr. Matthews, who was the science teacher, said that there was no differentiation of instruction. Ms. Smith, who taught English and social studies, said that books called SRA Social Studies were used for fifth and sixth grades. Ms. Rowe testified that in her review of the content of the books, they were not comprehensive for what should be a fifth or sixth grade social studies curriculum.

This modification more accurately reflects the testimony of DeAnna Rowe and is

supported at TR, 07/16/08, page 64, lines 17-24 and page 65, lines 8-10.

15. Adopt Findings of Fact Nos. 52 and 53 in their entirety.

16. Modify Finding of Fact No. 54 as follows:

Ms. Rowe testified that the premise behind the Standards is to provide consistency in instruction. Although the school may decide how to teach the materials, the content is set by the Standards. If a student were to transfer to a different school, there is some assurance that regardless of how the content was delivered, the content itself was delivered.

This modification more accurately reflects the testimony of DeAnna Rowe and is supported by TR, 07/16/08, page 67, lines 9-16.

17. Modify Finding of Fact No. 55 as follows:

Ms. Rowe testified that lesson plans and grade books were not readily available when she visited the School. One teacher had offered to go to her car to get the materials, but Ms. Rowe did not think the class should be left unattended. Another teacher said that this information was not available because there had been a break-in at the School and much of the materials had been lost.

This modification more accurately reflects the testimony of DeAnna Rowe and is supported at TR, 07/16/08, page 68, lines 23-24.

18. Adopt Finding of Fact Nos. 56 and 57 in their entirety.

19. Modify Finding of Fact No. 58 to reflect the correct spelling of the word

“excerpt” and, also, as follows:

In response to the Board’s inquiry about Ascending Root’s failure to provide evidence of having provided a comprehensive program of instruction that was aligned with the Standards, on June 6, 2008, Kisha Spellman White, Charter Representative, provided the Board with an approximately 160-page excerpt from the Odyssey Ware instructional program and informed the Board that Odyssey Ware was the program that is used.[Footnote # 20. *See* the Board’s Ex. 8].

This modification is supported by the testimony of DeAnna Rowe, TR, 07/16/08, page 77, line 12 to page 78, line 3 and Finding of Fact No. 3.

20. Modify Finding of Fact No. 59 to reflect that Ms. Rowe's visit to the School occurred on February 7, 2008, not February 7 and 8, 2008, as follows:

Ms. Rowe testified that Odyssey Ware was a computerized program of instruction. On her February 7, 2008 visit to the School, she had not seen any computers or computer labs that were available for student use and none of the instructors had told her that they used a computerized course of instruction. She had discussed Ascending Roots' resources with the teachers. One teacher had said that she used SRA, which was published by Prentice Hall. The math teacher said he was pulling his lessons off his own computer. Ms. Rowe did not observe any students using Odyssey Ware.

This modification is supported by the testimony of DeAnna Rowe, TR, 07/16/08, page 58, lines 5-8 and consistent with the modification to Finding of Fact No. 50.

21. Adopt Finding of Fact Nos. 60 through 71 in their entirety.

CONCLUSIONS OF LAW

21. Adopt Conclusion of Law Nos. 1 through 4 in their entirety.

22. Modify Conclusion of Law No. 5 to reflect that the number of instructional hours required under Arizona law for seventh and eighth grade students is 1068, not 1084, as follows:

After the Board's compliance review, Ascending Roots had sufficient time to increase its instructional hours to provide the 1068 hours that Arizona requires for seventh and eighth graders. The Board has established that it failed to do so.

This modification is supported by Finding of Fact No. 23, Conclusion of Law No. 6, and the testimony of Andrea Leder at TR, 07/16/08, page 32, lines 8-12.

23. Adopt Conclusion of Law Nos. 6 and 7 in their entirety.

24. Modify Conclusion of Law No. 8 to add the testimony of Karen LeGrand that in the fiscal year 2005-2006, Ascending Roots received federal funds under the NCLB Act as follows:

Ms. White declined to testify on behalf of Ascending Roots during the hearing but suggested in closing argument that Ascending Roots did not have any ELL students. The Board presented no documentary evidence that Ascending Roots in fact had received NCLB funds for ELL students for the 2005-2006 school year. But the Board did have admitted into evidence three letters and two e-mails from ADE to Ascending Roots, requesting copies of its procedures for identifying and assessing students that were needed to justify the NCLB funds it had received for the 2005-2006 school year and to ensure that it continued to receive such funds in the 2006-2007 school year. Karen LeGrand testified that in the fiscal year 2005-2006, Ascending Roots received federal funds under the NCLB Act. Ascending Roots did not offer into evidence any responsive correspondence, either protesting that it had not received NCLB funds for ELL students during the 2005-2006 school year or providing procedures for identifying and assessing such students.

This modification is supported by the testimony of Karen LeGrand at TR. 07/16/08, page 43, lines 11-13 and Finding of Fact No. 35, as modified in paragraph 4 above.

25. Adopt Conclusion of Law Nos. 9 through 12 in their entirety.
26. Modify Conclusion of Law No. 13 to insert the following after the first sentence:

It should be noted that the implementation of corrective measures does not, in and of itself, stand as a guarantee against revocation of a charter. Instead, such measures are considered at hearing as one factor in the overall determination as to whether revocation is appropriate.

This modification is requested for the reason that, in determining whether to revoke a charter, the Board should consider all of the evidence, the nature of the violations of statute and Charter Contract provisions proven by the Board, and the compliance history of the School, if any, evidenced in the Record, as well as the type and timing of the School's implementation of corrective action measures.

27. Adopt Conclusion of Law Nos. 14 through 16 in their entirety.
28. Modify Conclusion of Law No. 17 to reflect that the word "even" in the

last sentence should read "event." This modification is supported by the text of the paragraph.

Order

For the foregoing reasons, the Board finds that the charter contract for Ascending Roots Scholastic & Athletic Premise, Inc. is revoked on the effective date of this order.

It is further ordered that the Ascending Roots Scholastic & Athletic Premise, Inc. make available a complete copy of the School's student educational record to each student upon request of the student, the student's parent or guardian ad litem, or the student's receiving school, or the State Board for Charter Schools.

Notice

The parties are hereby notified that, pursuant to A.R.S. § 41-1092.09, this Order shall be final unless a party submits a written motion for rehearing or review within thirty (30) days after the service of this Order. The motion for rehearing or review must specify the particular grounds upon which it is based. A copy shall be served upon all other parties to the hearing. In the alternative, the parties may seek judicial review of the Board's decision pursuant to A.R.S. §§ 41-1092.08(H) and 12-901 et seq. within thirty (30) days after service of this Order.

Done this 19th day of August, 2008.


Christy Farley
Vice-President
Arizona State Board for Charter Schools

ORIGINAL Order filed this 19
day of August, 2008, with:

The Office of Administrative Hearings
1400 West Washington
Suite 101
Phoenix, Arizona 85007

COPY of the foregoing Order
mailed this 20 day of August, 2008, to:

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Charter School
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Phoenix, AZ 85051

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By DLowe